

ADDITIONAL COMMENT SOUGHT ON STRUCTURE AND PRACTICES OF THE VIDEO RELAY SERVICE (VRS) PROGRAM AND ON PROPOSED VRS COMPENSATION RATES

CG Docket No. 03-123

CG Docket No. 10-51

**Summary:**

In the matter concerning the structure and practices of the VRS program specifically, the request for public input on CSDVRS proposed plans, the Commission is urged to consider the input provided in this comment filing. It has been submitted with the intention of assisting the Commission in increasing the probability of success for reducing waste, preventing fraud, and improving VRS accessibility without sacrificing consumer choice and communication access quality.

While CSDVRS's proposed plans do not necessarily render a significant reduction in waste, guarantee prevention of fraud, or ensure functionally equivalent interpreter (VI/CA) communication access, it does bring us closer to the truth on the potential for additional cost savings, and that true consumer choice lies in off-the-shelf products not necessarily in the number of VRS providers offering VRS. One concern is that the centralization of the call routing function, a primary role of the ACD, will render the Commission's previous rules regarding the leasing of an ACD irrelevant. Add that with no oversight on CA/VI qualifications and a per-minute pay structure; and what you have is a recipe for more VRS providers seeking certification to receive compensation from the TRS fund. In time, there will be many more VRS providers in the market which will increase the chances for waste and fraud. Moreover, an increase in number of VRS providers further threatens the integrity of an already fractured provision of effective communication.

**Background:**

The Commission does not need to be reminded of what it has done over the recent years to protect the integrity of the TRS fund and the quality of VRS access, it is worth mentioning however, that the Commission is to be applauded for its efforts to work with consumer groups in promoting consumer choice. But even more worthy to note, is the fact that past and present number of VRS providers in the market has very little to do with providing consumers with choice in terms of functionally equivalent VRS access technology and VI/CA communication access. I assert that consumer choice and quality communication access is more readily achievable with a single VRS provider than with multiple providers. Therefore the challenge does not lie in ensuring availability of VRS access technology or maximizing consumer choice, but in mustering up the courage to undertake an unpopular approach for reducing waste and preventing fraud.

Historically, there has been a gross imbalance between functional equivalency in VRS access technology and CA/VI Communication access. Prior to other providers joining the market, the only provider at the time VRS was first launched employed the services of some of the best interpreters in the field; however the off-the-shelf products at the time enabled only a limited number of the ASL user population access to the service. Indeed users enjoyed effective communication, but they did not enjoy the inferiority of VRS access technology.

The Sorenson VP100 and later VP200 closed the accessibility and effective communication gap. In the meantime, many more VRS providers joined the VRS scene, and the interpreting market was drained of its resources in order to facilitate VRS provider demands. In time, the focus on the quality of the VI/CA communication access took a backseat to VRS access technology. It was only natural that the shift would occur because there wasn't and aren't a sufficient number of qualified interpreters to meet the demands of multiple sources competing for interpreters.

Today, both VRS Access technology and quality VI/CA communication access can be achieved, and ironically its greatest obstacle is the number of VRS companies in the market.

### **Competition at the Interpreter Level: Violation of Deaf People's Linguistic Human Rights?**

Competing at the interpreter level is at best an unrealistic approach to ensuring functional equivalency at the Interpreter/CA level. There are not enough qualified interpreters to supply the demands of multiple VRS providers. However, there may be a greater chance that there are enough to supply the demands of all ASL VRS users while not sacrificing quality on-site interpreting access through one VRS provider. Especially now, that some VRS companies are simultaneously providing Video Remote Interpreting services within their VRS agent platform. This new business model that VRS companies are adopting comes with a slew of new problems for the interpreting and Deaf communities respectively.

At worst, competing at the interpreter level could be a violation of the American's with Disabilities Act (ADA), which stipulates that Deaf people have the right to effective communication. Receiving effective communication is an unalienable linguistic human right enforced by the ADA. If the Commission chooses to adopt this model for VRS, it may unwittingly be promoting the unalienable rights of business owners to engage in commerce over the unalienable rights of the Deaf to receive effective communication.

### **ASL Interpreting Profession: Distorting the Spirit of the Profession**

ASL interpreting services is deeply rooted in human service and the connections between interpreters and consumers. While there is a business component to the services interpreters provide, it is not best practice to foster a spirit of competition in the provision of effective communication. In fact, it is counter-intuitive to the purpose of the profession. Providing effective communication is in service of the best interests of consumers who depend on it, and not for the promotion of a competitive context.

What this proposal suggests is that the spirit of the profession transform from a service dedicated to the provision of effective communication to competitive one in order to facilitate VRS providers' chances for increasing their market shares within the VRS industry.

The level of absurdity in suggesting competing at the interpreter level is equal to the Civil Rights Act of 1964 promoting a similar context in society whereby public facilities could compete on the level of equality they afford women, Latinos, African-Americans, and other minorities.

In essence, the Commission and interpreters alike are being asked to be complicit in toying with the linguistic human rights of Deaf people for the sake of promoting capitalism. The Commission and the profession of sign language interpreting are tasked to ensure effective communication is provided; this proposal runs contrary to our mutual endeavor especially in the absence of oversight of interpreter qualifications and the enforcement of healthy working conditions for interpreters.

### **Illusion of Choice**

In 2009, the Commission gave serious consideration to competitive bidding in place of a competitive market, but it received strong opposition from VRS providers and consumer groups including the interpreting profession.

The argument in support of the existing competitive market was to avoid diminishing the incentive for ongoing research and development of VRS access technology hence diminishing consumer choice. But if we take an honest look at the market, we will find that most of what is offered by VRS providers is readily available off-the-shelf, and in many cases free to the public. Today, this could not be more true, and it is validated by CSD VRS' proposal.

In short, there is no justification for more than one VRS provider when consumer choice in VRS access technology is readily available in off-the-shelf products and functionally equivalent VRS communication

service can be achieved through the enhanced iTRS database. To foster a multi-VRS provider environment would be to foster the illusion of choice. Especially in light of the fact that for over 10 years a single VRS provider has had control of the market, and there is no guarantee that it will not be the case going forward.

#### **Alternate Solution(s):**

In order to achieve additional cost savings to the TRS fund and to reduce waste and fraud, and to deter those only interested in profiting from the service, the Commission is urged to consider an alternative plan altogether.

By adopting a one provider VRS context, the Commission exponentially increases the probability for success in ensuring that users of VRS are indeed receiving functionally equivalent telecommunications access, thereby fulfilling its role as charged by the United States Congress. Furthermore, it would result in saving millions more while ensuring quality and choice.

In essence we have three choices:

1. Support the status quo
2. Support the proposed plans
3. Support an alternative route altogether

#### **How do we go about choosing the best plan?**

We can begin by considering the following issues and/or criteria:

- Cost Savings to TRS Fund
- Functional Equivalency: Tangibles and Intangibles, Interoperability, Portability, and Effective Communication
- Consumer Choice: Product
- Reducing waste
- Preventing fraud
- Interpreter authority over service delivery of effective communication
- Interpreter working conditions
- Preservation of Culture and Language
- Consumer Choice: VRS Provider

Let's take a look at what each plan delivers to all stakeholders of VRS:

1. FCC
2. VRS consumers
3. Public
4. TRS Fund
5. Interpreters
6. VRS providers

#### 1. **Status Quo**

- a. Little to no cost savings to TRS fund going forward
- b. Functional equivalency issues in the area of P2P communications, interoperability, and portability, and effective communication.
- c. Consumer choice is improving, but current technical standards prevent interoperability between devices and applications
- d. Having several VRS providers (most do not offer devices simply use other providers devices) cost the TRS fund more money
- e. Preventing fraud is much more difficult to do
- f. Because interpreters work for different providers, struggle to unite the interpreter voice will persist
- g. Working conditions will be improved, but only slightly. It won't be long before gets worse again, thereby threatening an unequivocal component to functional equivalency; effective communication.
- h. No minimum standards regarding the qualifications of the interpreter and the growing popularity of including VRI to VRS work will further threaten language and culture of the Deaf
- i. Choice in provider not an issue. Consumers and interpreters will still be able to choose, but probability of choosing limited to a few consumers and interpreters

## **2. Proposed Plan**

- a. According to CSDVRS's proposed blended rate: \$50M in annual savings
- b. Functional equivalency will improve in the areas of interoperability and portability but not necessarily in effective communication. Despite the fact that the proposed plan suggests competing at the interpreter level, current pool of qualified interpreters and cost cutting measures applied today and in the future cannot sustain the costs/demands of multiple VRS companies competing for qualified interpreters.
- c. Consumer choice will lie in off-the-shelf products that are much more superior to current VRS access technology provided by a few VRS providers. Consumers will no longer depend on the limited supply of VRS access technology provided by VRS companies.
- d. Current number of VRS providers and possible growth in the number of VRS providers in the future create more waste. The cost to the TRS fund will be higher due to compensating multiple VRS providers.
- e. Fraud prevention is not guaranteed. But the fact that the call distributing will be handled by a neutral external data base (enhanced iTRS) helps reduce the chances for fraud.
- f. Because interpreters work for different providers, the struggle to unite the interpreter voice will persist.
- g. Working conditions will be improved, but only slightly. It won't be long before gets worse again. Especially with simultaneous provision of VRI and VRS, thereby threatening the provision of effective communication; an unequivocally crucial piece to functional equivalency.
- h. No minimum standards regarding the qualifications of the interpreter and the growing popularity of including VRI to VRS work will further threaten language and culture of the Deaf
- i. Choice in provider not an issue. Consumers and interpreters will still be able to choose, but probability of choosing limited to a few consumers and interpreters

### 3. Alternate Plan:

This plan is the opposite of what CSDVRS proposed. Instead of separation of interpreter from the VRS access technology component whereby the VRS providers retain the interpreting end of the service, separation of interpreter from the VRS provider is suggested. In essence all current and future interpreters could work for the current administrator of the iTRS database, NeuStar instead of different providers. Compensation to iTRS database administrator would be based on average cost of interpreters and overhead, and not on per minute compensation. The Commission can ask for annual updates on existing VRS access technology to ensure that up-to-date VRS access technology is available to VRS users. Contracting the services of a third party oversight team to ensure that interpreters working as CAs are indeed qualified to work in VRS will foster the delivery of effective communication to users of VRS. This, as well as all of the other components needed to provide VRS, is much more fiscally manageable through one provider rather than several.

- a. Limiting the provision of VRS to one company saves millions more than the proposed plan.
- b. Interoperability, portability, and effective communication can be readily achieved under one VRS company/database absent of competitive pressure for a bigger share of the VRS market.
- c. Consumer choice will lie in off-the-shelf products that are much more superior to current VRS access technology provided by a few VRS providers.
- d. One entity handling the provision of VRS means an overwhelmingly significant reduction in wasteful practices.
- e. Fraud prevention is guaranteed.
- f. Interpreters can regain authority of service provision thereby ensuring that consistent effective communication is provided to all consumers of VRS.
- g. Working conditions can be readily improved and sustained. Thereby ensuring the longevity of the service, and the provision of effective communication.
- h. Using only qualified interpreters will ensure that our impact to the culture and language is minimal or even positive.
- i. No VRS provider choice available, however the most qualified interpreters will be at the consumer's disposal. The combination of provision of effective communication and superior off-the-shelf VRS access technology will ensure true functional equivalency

The table below is used to illustrate the level of performance for each plan. The issues are listed and each plan is rated based on a 3 star scale according to their performance levels for each criterion/issue listed.

1 star = fair, 2 stars=good, 3 stars =great

Issues	Status Quo	Proposed Plan	Alternate Plan
Cost Savings	*	**	***
Effective Communication	**	**	***
Interoperability	**	***	***
Portability	*	***	***
Choice	**	***	***
Waste	*	**	***
Fraud	*	**	***
Interpreter Autonomy	*	*	***
Working Conditions	*	*	***
Culture and Language	*	*	***

### Level of positive impact for each stake holder

Using the same 3 star scale, the following table illustrates the level each stake holder benefits from each plan: Status Quo, Proposed plan, and Alternate Plan

1 star = fair, 2 stars=good, 3 stars =great

Stakeholders	Status Quo	Proposed Plan	Alternate Plan
FCC	*	**	***
VRS Consumers	*	**	***
Public	*	**	***
TRS Fund	*	**	***
Interpreters	*	*	***
VRS Providers	**	***	***



**Conclusion:**

I ask that the Commission contemplate the following excerpt from *Butcher's Union Slaughterhouse Co. v. Crescent City Live-Stock Landing Co.*:

"...Among these unalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment."

The linguistic human rights of the Deaf have nearly always come second to the interests of the hearing majority. If that were not the case, the ADA law would not be necessary.

As a government entity charged with the responsibility to ensure that telecommunications access is available to Deaf people, the Commission is thereby tasked with the responsibility to ensure that the unalienable rights of Deaf people are not superseded by the rights of business owners to engage in commerce. The private interests (VRS companies) must be made subservient to the general interests of the community (Deaf community).

Considering competing at the interpreter level is a classic example of "hearing" privilege taking for granted that effective communication is not a tool to be used for competition but an inalienable right of Deaf citizens.

The Commission is urged to stop the promotion of a competitive VRS environment where one is not necessary, and adopt a plan that protects the right of Deaf people to equal telecommunications access.

Sincerely,

Gina Gonzalez

Co-founder of Video Interpreters United